HARDIAL SINGH SEKHON v. AHMAD BIN HAJI RAMLI & ORS.

[O.C.J. (Vohrah J.) November 5, 1980]

[Kuala Lumpur — Civil Suit No. P.396 of 1980]

Practice and Procedure — Pleadings — Statement of claim — Actual cause or causes not ascertained — Pleadings likely to embarrass plaintiff — Claim struck out — Rules of the High Court 1980, O. 18 rr. 7(1) & 19.

The court in this case was requested by the unrepresented plaintiff to indicate which portions of his pleadings required amendment or striking out in order to bring them into compliance with the Rules. The learned Judge found that the 20-page pleadings did not disclose clearly the actual cause or causes of action. Instead, they comprised a mixture of facts and law together with the evidence of the case.

Held, it was not proper for the court to act as the plaintiff's counsel or to advise him in detail how to go about his pleadings. The application to strike out the statement of claim was therefore allowed and the plaintiff be at liberty to file afresh.

CIVIL SUIT.

Plaintiff in person.

Yusof Khan (Senior Federal Counsel) for the defendants.

Cur. Adv. Vult.

Vohrah J.: There were three applications before me when I considered this case in open court on September 29, 1980. The first (Enclosure 5) was an application on the part of the plaintiff for consolidation of this suit with Civil Suit P.321 of 1979 on the ground that the rights to relief claimed in both the suits arise out of the same transaction. The second (Enclosure 6) was an application by the second, third and sixth defendants for an order that the whole statement of claim be struck out under Order 18 rule 19 of the Rules of the High Court 1980 and under the inherent jurisdiction of the court. The third (Enclosure 11) was a similar application made by the remaining defendants.

By consent the second and third applications were heard first.

The amended statement of claim (Enclosure 12) consisted of more than 20 pages of pleadings wherein at paragraph 40 the plaintiff sought 27 declarations. I went through the pleadings carefully but found it difficult to ascertain the actual cause or causes of action. What was clear was that the pleadings did not comply with the provisions of Order 18 rule 7(1). They comprised a mixture of facts and law together with what appeared to be the evidence in the case. It was patently obvious to me that the defendants would be embarrassed in meeting the plaintiff's case. A passage in *The Supreme Court Practice 1979* at page 318 reads: —

"The rule that the court is not to dictate to parties how they should frame their case, is one that ought always to be preserved sacred. But that rule is, of course, subject to this modification and limitation, that the parties must not offend against the rules of pleading which have been laid down by the law; and if a party introduces a pleading which is unnecessary; and it tends to prejudice, embarrass, and delay the trial of the action, it then becomes a pleading which is beyond his right" (*per* Bowen L.J. in *Knowles* v. *Roberts*, 38 Ch. D. p. 270).

I considered this passage was specifically applicable to this case. The plaintiff requested that the court indicate which portions or parts of his pleadings required amendment or striking out in order to bring them into compliance with the rules. I had, however, already advised him in chambers when the matter came up for mention at an earlier date that he should engage counsel to handle his case and I did not think it proper that I should in effect act as his counsel and advise him in detail how to go about his pleadings. I accordingly allowed the applications to strike out the statement of claim with costs. In the event I dismissed the plaintiff's application for consolidation. At the plaintiff's request, I gave him liberty to file afresh.

Order accordingly.